



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: July 12, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Jillian M. Harris, AICP, Planning & Zoning Administrator

Subject: **Cellco Partnership dba Verizon Wireless c/o McLane Middleton, P.A. (applicant) and Merrimack Village District (owner)** — Review for acceptance and consideration of Final Approval for a site plan to construct a Telecommunications tower. The parcel is located off of Turkey Hill Road in the R (Residential) District. Tax Map 5C, Lot 004.

Background

The subject property is an approximately 1.003 acre parcel located on Turkey Hill Road in the R (Residential) District. The property is currently the site of a water tank owned by Merrimack Village District.

The petitioner is proposing a 100' high "monopine" (tower will be camouflaged as a pine tree), within the fenced perimeter of the property on a 10' x 12' concrete pad. The tower is proposed to be located approximately 153' from the east property line, 193' from the south property line, 56' from the west property line and 16' from the north property line. The applicant has indicated that they intend to meet applicable building codes and submit certified and stamped building/construction plans to the building inspector as well as review by a structural engineer designated by the Town. Section 2.02.4.B.22.a.1 allows the Planning Board to permit a lesser setback during site plan review where these criteria are met.

The tower will be enclosed by an 8' fence and serviced by an existing 20' wide access and utility easement, connecting to Turkey Hill Road and to the east section of the site. According to the property description in the application the equipment enclosure will be screened by the chain-link fence, the large reservoir tank and the property's existing foliage.

The petitioner was granted a special exception for the proposed telecommunications tower within the (R) Residential District at the May 25, 2016 Zoning Board of Adjustment meeting. In addition, the petitioner has provided an extensive application packet which the Board should review carefully in evaluating the petition.¹

Completeness

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision.

¹ Note that bonding is no longer permitted under State law per RSA 12-K:11

Waivers

The applicant has requested the following waivers:

- Section 7.03 – Parking requirements;
- Section 7.05.D.7 – soil types and boundaries;
- Section 7.05.D.13 – storm water drainage plan;
- Section 7.05.D.14 – engineering calculations;
- Section 7.05.D.15 – topography;
- Section 7.05.D.18 – landscaped area;
- Section 7.05.D.19 – paved pedestrian way or sidewalk.

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:44:

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**
- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Setback Requirements

According to Section 2.02.4.B.22.a(A), Towers shall be set back from the property line by a distance equal to the height of the tower. ***The Planning Board may permit a lesser setback where:***

- alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction, or;
- where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town.

According to the applicant the tower will be designed in full compliance with all applicable building codes and building/construction plans submitted will be certified and stamped by a licensed structural engineer. Further the applicant agrees to have the plans reviewed by a structural engineer designated by the Town. Therefore, the applicant requests a lesser setback whereas the tower is proposed to be located 56' from the west property line and 16' from the north property line.

Recommendation

Based on the information available to date, **staff recommends that the Board grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

1. Final plans to be signed by all property owners and signed and sealed by all appropriate professionals;
2. The applicant shall obtain all required Federal and State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
3. Any waivers granted (including Section and date granted) or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall indicate any proposed easements on the plan, as applicable, including utility and access easements. A draft copy of any proposed easements and any applicable legal documents to be submitted to the Community Development Department for review and approval by the town's legal counsel (legal review shall be performed at the applicant's expense);
6. The applicant shall address the following comments from the Building Department, as applicable:
 - a. Add notes to indicate all currently enforced fire safety, building and electrical codes to be utilized where building/tower construction takes place. A third party inspection and documentation of structures will be needed before final can be made available.
7. The applicant shall address any forthcoming comments from the Merrimack Village District, as applicable;
8. The applicant shall address any forthcoming comments from the Assessing Department, as applicable;
9. The applicant shall address any forthcoming comments from the Department of Public Works, as applicable;
10. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
11. The applicant shall address the following Planning Staff Technical Comments:
 - a. Applicant to note the special exception granted by the ZBA for this property;
 - b. Applicant to add a note per Section 7.05.D.16 of the Subdivision and Site Plan Regulations;
 - c. Applicant to revise parcel lot area noted on all sheets to the actual lot area per the reference plan (Assessors card will be updated to reflect actual lot area).

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall address the following comments from the Building Department, as applicable:
 - a. Most recently adopted building, fire safety, and electrical code requirements will be requested with building permit applications. An engineering report confirming capabilities of structures will be needed.

Cc: Planning Board File
Correspondence

Ec: Joshua Lanzetta, Esq., McLane Middleton, PA (applicant)
Merrimack Village District (owner)
Building Department Staff
John Manuele, Merrimack Fire Department
Mark Doyle, Police Department
Kyle Fox, Public Works Department

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